

Attorney ~~Box~~ No.:

Inventors:

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CJL-0002

Odidi and Odidi

09/765,783

January 19, 2001

REMARKS

Claims 1-61 are pending in the instant application. The pending claims have been subjected to a Restriction Requirement as follows:

Group I, claims 1-40 drawn to a method for making foam, classified in class 521, subclass 149.

Group II, claims 41-61, drawn to product, classified in class 424, subclass 489.

The Examiner suggests that Groups I and II as set forth above are distinct, each from the other, as related as process of making and product made. The Examiner suggests that the inventions are distinct if either or both of the following can be shown: a) that the process as claimed can be used to make other and materially different products, or b) that the product as claimed can be made by another and materially different process. The Examiner asserts that the inventions of Group I and Group II claims are distinct under MPEP 806.05, since the process as claimed can be used to make other and materially different products such as spacing inserts. Applicants respectfully traverse this restriction requirement.

First, the method disclosed in claims 1-40 is for making a deformable syntactic foam for use as a carrier in a variety of



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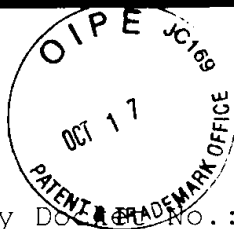
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applications. As such the product itself is not different, but rather the product can be used in different applications.

However, the product cannot be made by another and materially different process. Further, all of the claims of Group II are dependent claims which depend upon claim 29 of Group I. As such, the pharmaceutical composition as claimed in claims 41-61 requires that the carrier is prepared by the method of claim 29. Therefore the composition requires the specific product formed of the method of Group I claims. Accordingly, a restriction requirement under MPEP 806.05 is not proper.

Additionally, all of the claims of Group II contain the components for use in the same endpoint, namely a carrier prepared by the method of claims of Group I. Thus, examination of both Groups in this application would not be overly burdensome to the Examiner.

Reconsideration and withdrawal of this Restriction Requirement is therefore respectfully requested.



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However, in an earnest effort to be completely responsive,
Applicants elect Group I, claims 1-40, with traverse.

Respectfully submitted,

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